

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 189 of 2003.

Decided on: 17.4.2007.

Power Grid Corporation of India Ltd.

Versus

Surinder Chauhan & Ors. .

... .. **Petitioner.**

... .. **Respondents.**

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting? No.

For the petitioner: Mr. Bimal Gupta, Advocate.

For Respondents No.1 to 8: Mr. B.S. Chauhan, Advocate.

For Respondent No.9: Mr. Sandeep Sharma, Asstt. Solicitor General of India.

For Respondent No.10: Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. Advocate General.

Rajiv Sharma, Judge (Oral):

Through the medium of this petition, the award dated 1.11.2002 passed by the learned Additional District Judge, Shimla has been assailed, niter alia, on the ground that the "Evaluation Criteria of Fruit Trees in Himachal Pradesh", published by Department of Horticulture, Himachal Pradesh has not been followed while determining the compensation for the damages caused to the apple trees.

Whether reporters of local papers may be allowed to see the judgment? No.

The brief facts for adjudication of this petition are that the petitioners constructed 400 KV D/C Nathpa Jhakri Transmission Line and while doing so, have caused damage to the apple trees of the respondents. The respondents had claimed Rs.6,00,000/- (rupees six lacs) compensation on account of total damage to 20 apple trees (i.e. @ 30,000/- per tree). The respondents were only paid a sum of Rs.21,000/-. The respondents being dissatisfied with the meagre amount of Rs.21,000/- paid to them filed petition under Section 16(3) of the Indian Telegraph Act, 1885 read with Section 51 of Indian Electricity Act for enhancement of compensation. The learned Additional District Judge, Shimla has held the respondents entitled for enhancement of compensation ten times over the amount of Rs.21,000/- as market value of the trees. The respondents were also held entitled to interest @ 9% per annum on the enhanced amount from the date of the filing of the petition till its realization.

The learned counsel for the petitioners has submitted that the formula placed on record of this petition (Annexure P-4) could have been considered by the Additional District Judge for the purpose of determining the compensation for the damage caused to the apple trees. Mr. Balbir Chauhan has supported the award dated 1.11.2002 passed by the learned Additional District Judge, Shimla.

I have perused the record and heard the parties. There is neither any illegality nor irregularity or any jurisdictional error in the award dated 1.11.2002.

I am of the considered opinion that the "Evaluation Criteria of Fruit Trees in Himachal Pradesh", as placed on record vide Annexure P-4 has not been relied upon before the Additional District Judge at the time of

hearing by the petitioners and the same cannot be permitted to be referred by the petitioners at this belated stage. The learned Additional District Judge has considered the law laid down by this Court in **Union of India versus Khazana Ram, 1998 (1) Shimla Law Cases, 497**. Khazana Ram's case was also pertaining to construction of tower and overhead electric lines by Telegraph Department and during that process damage was caused to the trees of the claimants. The learned Additional District Judge while determining the compensation to be paid to the respondents-claimants has rightly relied upon the copy of price index Ex. PW-2/A.

The learned Additional District Judge has rightly relied upon the judgments of Hon'ble Kerla and Allahabad High Courts where also the question of determination of payment of compensation in such like situation came up for consideration. Accordingly, there is no merit in the writ petition and the same is dismissed with no order as to costs. The balance amount lying deposited in the Registry of this Court be released to the respondents forthwith.

(Rajiv Sharma)
Judge

April 17, 2007.
(sck)